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SIPDIS

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TAGS: [PTER](#) [EFIN](#) [PHUM](#) [TU](#)
SUBJECT: AMBASSADOR RAISES DEFINITION OF TERRORISM AND TAX
ISSUES WITH MINISTER SIMSEK

REF: A. ANKARA 1497
[1](#)B. ANKARA 1425
[1](#)C. ANKARA 1327

Classified By: Ambassador James Jeffrey for reasons 1.4 b, d

[1](#)1. (C) Summary: Ambassador Jeffrey and Econ Counselor met November 12 with Minister of Finance Mehmet Simsek. Simsek established an interagency working group on the definition of terrorism that will make recommendations on legislative changes by mid-December, allowing him to present legislation to the parliament in January, in advance of the FATF review deadline. On the Revenue Administration's (RA's) denial of the USG request for consultations on Citigroup's liability under the Bilateral Tax Treaty, Simsek said he was unaware of the internal guideline used to deny the request, and the Ambassador promised him a paper on the issue. On the Dogan tax case, Simsek said the GOT was hampered by tax confidentiality rules from defending itself publicly. Dogan was being treated the same as other taxpayers. Auditors assessed back taxes after finding a series of unreported stock transfers in which Dogan moved shares through multiple "dummy" companies and then to Dogan's German partner. Simsek argued that the GOT could not win with the public or investors by politicizing the case, and that he recently told Dogan's daughter that the door to settlement was still open. The Ambassador said the process, while legal, appeared flawed and the USG had to ask if the penalties were proportionate and if their effect is to restrict the media, regardless of intent. End summary.

[1](#)2. (C) Ambassador Jeffrey asked Simsek about the GOT's preparations for the Financial Action Task Force (FATF) "targeted review" of Turkey, which will be published in February. The Ambassador noted that Turkey's limited definition of terrorism was likely to be a particular concern to the FATF. Simsek said he had established an interagency working group on Turkey's definition of terrorism, and that he expected the group to make recommendations by mid-December. Simsek said this would allow him to raise the issue with the Cabinet in late December and present any legislative changes needed in January. The Ambassador said the working group might want to review the definitions of terrorism of the United Kingdom, New Zealand and Belgium, which had been found "fully compliant" by the FATF, and those of Canada, Japan, the UAE, Spain and Norway, which the FATF had found to be "largely compliant."

[1](#)3. (C) The Ambassador told Simsek that the USG was troubled by a refusal of the Revenue Administration (RA), which reports to Simsek, to agree to a consultation process with the USG concerning Citigroup's tax liability, as called for under Article 25 of the US-Turkey Bilateral Tax Treaty. The basis for the refusal was a new RA Internal Guideline that tries to limit taxpayers to either consulting under the treaty or going to local court, but not both. The Ambassador said we did not see how an Internal Guideline could overrule a treaty provision. Simsek said that Citigroup had met with

him and requested more time to negotiate with the RA. While Simsek said he wanted to agree to their request, they had come to him after the settlement negotiations had ended, and that it was not possible to re-open the negotiations to allow more time. He was not aware of the RA refusal to consult under the treaty. The Ambassador said we would send a paper with details, and Simsek said he would review it with the RA.

¶4. (C) The Ambassador then raised the Dogan Group tax case, which he noted had set off a public debate about whether the GOT was trying to restrict press freedoms. Simsek said the GOT was hampered by tax confidentiality requirements from defending itself fully in the press, while Dogan was free to provide selective information that made the GOT's actions appear sinister. The Dogan case began, Simsek said, when the RA received a detailed, anonymous letter outlining a series of undisclosed stock transfer transactions involving Dogan Broadcasting shares. Simsek said that over a few hours time, Dogan had transferred shares through multiple "dummy" companies (which appeared to have been set up only for purposes of these transfers) and finally to Dogan's German partner, Axel Springer. None of these stock transfers were reported to the Capital Markets Board. To this day, Simsek said, Dogan has not revealed these transactions to the public nor explained their purpose to the GOT. (Comment: Simsek was careful not to say that these were sham transactions intended to avoid taxes, though he implied it. Rather, he emphasized that Dogan was not disclosing the whole truth about the tax case in the press. But if the GOT still does not understand the purpose of the transactions, it remains unclear on what basis they found additional tax was due. End comment.)

¶5. (C) Simsek acknowledged the public perception that the GOT was using its tax authority to punish Dogan after his public

spat with the Prime Minister in 2008, but argued that Dogan was being treated the same as other taxpayers. Simsek said that the RA initially sent in auditors to confirm the anonymous letter's content before the Erdogan-Dogan dispute erupted. A team of 15 auditors all signed the report finding that back taxes were owed and Simsek asserted that it would be impossible for the GOT to influence all 15 auditors to falsify a report even if it tried to. Dogan's tax liability was determined by the auditors, not the GOT. The RA then applied statutory interest (30 percent per year) and a standard penalty equal to the amount of back taxes owed. Simsek also noted that Dogan's daughter had recently met with him and that he had told her the door to settlement was still open.

¶6. (C) The Ambassador thanked Simsek for his explanation, but noted that USG remains concerned. While all that was done to Dogan might have been perfectly legal in Turkey, it was the result of a deeply flawed process in which the RA was prosecutor, judge and jury, and noted that Dogan had to pay billions of dollars just to take this case to court and defend itself. While legal, the USG has to ask if the penalty was proportionate and whether it does in fact affect the media. Simsek said that the GOT has not engaged in any political discussions on this case. "we cannot win this either with the public or with investors" because the GOT cannot defend itself. He argued that the lien on Dogan's stock was only precautionary and did not interfere with their operations -- "we haven't seized anything." He also said the majority of Turkish media do not make much money as a business, but make up for their losses with political favors.

JEFFREY

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